

## Part 1 General Provisions

### 31A-6b-101 Title.

This chapter is known as the "Guaranteed Asset Protection Waiver Act."

Enacted by Chapter 274, 2010 General Session

### 31A-6b-102 Definitions.

- (1) This section defines a term only for purposes of this chapter. A term defined in this section is not required to be used in a guaranteed asset protection waiver.
- (2) For purposes of this chapter:
  - (a) "Administrative functions" includes providing:
    - (i) document development, processing, and management;
    - (ii) data processing and support;
    - (iii) compliance services;
    - (iv) waiver fee processing;
    - (v) benefit determination;
    - (vi) technology support; or
    - (vii) personnel support.
  - (b) "Administrator" means a person who provides administrative functions related to a guaranteed asset protection waiver.
  - (c) "Borrower" means a person who under a finance agreement is:
    - (i) a debtor;
    - (ii) a retail buyer; or
    - (iii) a lessee.
  - (d) "Creditor" means a person who is:
    - (i) a lender in a loan or credit transaction;
    - (ii) a retail seller of a vehicle that provides credit to a retail buyer of the vehicle;
    - (iii) a lessor in a lease transaction;
    - (iv) a seller in a commercial retail installment transaction; or
    - (v) an assignee of a person listed in this Subsection (2)(d) to whom a credit obligation is payable.
  - (e) "Finance agreement" means one or more of the following for the purchase or lease of a vehicle:
    - (i) a loan;
    - (ii) a retail installment sales contract; or
    - (iii) a lease.
  - (f) "Guaranteed asset protection waiver" means a contract for a separate charge:
    - (i) under which a creditor agrees to waive all or part of the amounts due on a borrower's finance agreement if a vehicle is subject to:
      - (A) a total physical damage loss; or
      - (B) unrecovered theft; and
    - (ii) that is made part of a finance agreement, even if the guaranteed asset protection waiver is stated in a separate addendum to the finance agreement.
  - (g) "Preliminary period" means a time period that:
    - (i) begins the day on which a guaranteed asset protection waiver becomes effective; and

- (ii) ends the last day on which a borrower may cancel the guaranteed asset protection waiver with a full refund if no benefits have been provided.
- (h) "Restricted account" means the Guaranteed Asset Protection Waiver Restricted Account created in Section 31A-6b-204.
- (i)
  - (i) "Vehicle" means a vehicle that is:
    - (A) self propelled or towed; and
    - (B) designed for personal or commercial use.
  - (ii) "Vehicle" includes:
    - (A) an automobile;
    - (B) a truck;
    - (C) a motorcycle;
    - (D) a recreational vehicle;
    - (E) an all terrain vehicle;
    - (F) a snowmobile;
    - (G) a camper;
    - (H) a boat;
    - (I) a personal watercraft; or
    - (J) a trailer for a motorcycle, boat, camper, or personal watercraft.

Enacted by Chapter 274, 2010 General Session

**31A-6b-103 Relationship to title -- Scope -- Exemptions.**

- (1) A guaranteed asset protection waiver:
  - (a) is not an insurance contract; and
  - (b) is not considered a debt cancellation or debt suspension contract for purposes of Section 31A-21-109.
- (2) A guaranteed asset protection waiver is exempt from the provisions of this title other than this chapter, except to the extent otherwise provided in this chapter.
- (3) This chapter does not apply to:
  - (a) an insurance contract offered by an insurer under this title; or
  - (b) a debt cancellation or debt suspension contract that:
    - (i) is not a guaranteed asset protection waiver; and
    - (ii) is offered in compliance with:
      - (A) 12 C.F.R. Part 37;
      - (B) 12 C.F.R. Part 721;
      - (C) other federal law; or
      - (D) Section 31A-21-109.
- (4) A person required to be licensed or registered in accordance with this chapter may not be required to be licensed under another provision of this title for engaging in an act regulated by this chapter.
- (5) A guaranteed asset protection waiver offered in connection with a loan, lease, or retail installment sale associated with a commercial vehicle transaction is not subject to this title.
- (6) The following are exempt from this chapter:
  - (a) a bank, as defined in Section 7-1-103;
  - (b) a credit union, as defined in Section 7-1-103;
  - (c) an industrial bank, as defined in Section 7-1-103;
  - (d) a savings and loan association, as defined in Section 7-1-103; or

(e) a subsidiary of an entity described in Subsections (6)(a) through (d).

Enacted by Chapter 274, 2010 General Session

**31A-6b-104 Severability.**

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Enacted by Chapter 274, 2010 General Session